tation on an elevated railroad, depositing it in a box provided therefor, and going on the platform, becomes a passenger, entitled to treatment as such.

It is generally held, that one who enters a railroad station and purchases a ticket intending to board a passenger train soon to arrive is a passenger; *Atchison, Topeka and Santa Fe Ry. Co. v. Hollaway*, 80 Pac. 31 (Kan.); *Central Ry. and B'king Co. v. Perry*, 58 Ga. 461; and it is also held that the contractual relation between passenger and carrier begins as soon as the passenger comes within the sphere of peril incident to street cars, where a car has been signalled and has stopped to take on passengers. *Holzenkamp v. Cincinnati Traction Co.*, 2 Ohio N. P. (N. S.) 157; *O'Mara v. St. Louis Transit Co.*, 102 Mo. App. 202. But the mere purchase of a ticket does not make one a passenger. The ticket must be bought with the intention of taking passage on a train scheduled to depart within a reasonable time. *Fremont, Elkhorn and Mo. Valley Ry. Co. v. Hagblad*, 101 N. W. 1033 (Neb.); *Vandegrift v. West Jersey and Seashore Ry. Co.*, 60 Atl. 184 (N. J.) In *Lake Street Elevated Ry. Co. v. Burgess*, 200 Ill. 628, it was held that a party upon the platform of an elevated railroad station, with the knowledge of the company that she intended to take a train, was a passenger when approaching to board a train.

CONSTITUTIONAL LAW—EQUAL PROTECTION OF LAWS—TERRITORIAL INEQUALITY.—PEOPLE EX REL. ARMSTRONG V. WARDEN OF CITY PRISON OF NEW YORK, 76 N. E. 11 (N. Y.).—*Held*, that a statute regulating the keeping of employment agencies in cities of the first and second class is not, because it applies only to cities of the specified classes, in violation of Const. U. S., Amend. 14, guaranteeing the equal protection of the laws.

It has been found hard to define satisfactorily the police power of a state It is held in the case of *Hayes v. Missouri*, 120 U. S. 68, that the Fourteenth Amendment does not prohibit legislation which is limited by the territory within which it is to operate, but merely that all subjected to such legislation shall be treated alike, and in the much-quoted case of *Budd v. New York*, 143 U. S. 517, it is said that a statute operating equally on all elevator owners in places having 130,000 population or more, though not applying on owners in places of less than 130,000 population, does not deprive the owners of the equal protection of the law within the meaning of the Fourteenth Amendment. Where part of a state is thickly settled and another part has but few inhabitants it may be desirable to have different systems of judicature for the two portions and the Fourteenth Amendment could never have been intended to prevent this. *Missouri v. Lewis*, 101 U. S. 23. Mr. Justice Field, concurring in *Butchers' Union Company v. Crescent City Company*, 111 U. S 746, says that the common business and callings of life, the ordinary trades and pursuits which are innocuous in themselves, and have been followed in all communities from time immemorial, must be free in this country to all alike upon the same conditions and without any legislative restrictions.

CRIMINAL LAW—OBJECTIONS TO INDICTMENT—WAIVER.—KLAWANSKI ET AL. V. PEOPLE, 75 N. E. 1028 (ILL. SUP.).—*Held*, that advantage can be taken upon writ of error of an indictment which charges no criminal offense notwithstanding a plea of guilty to it. Wilkin, Boggs and Hand, JJ., *dissent.*

In the case of *Fletcher et al. v. The State*, 7 Eng. 169 (Ark.) it was held that by a plea of guilty the defendant only confesses himself guilty in manner and form as charged in the indictment, and if the indictment charges no

offense against the law none is confessed. Fatal defects in indictments may be raised for the first time on appeal. *Pattee v. State*, 109 Ind. 545; *Cancerni v. People*, 18 N. Y. 128. But where the defect is merely formal and curable by amendment it cannot be raised for the first time on appeal. *People v. Kelly*, 99 Mich. 82. So an objection that an indictment charging two persons with a misdemeanor in running a horse race in the street of a town is insufficient, because it does not allege that defendants ran together, is too late, if taken for the first time on appeal. *King v. State*, 3 Tex. App. 7. But failure to demur to an indictment for burglary which charges that the defendants entered, etc., with intent to commit a felony, without stating what particular felony, does not waive the objection. *People v. Nelson*, 58 Cal. 104. And (as in case at hand) where defendant pleaded guilty and was convicted without moving to quash, or in arrest, or reserving any exception, it was held in *Henderson v. State*, 60 Ind. 296, that the indictment might be questioned in the first instance in the Appellate Court on assignment of error, and several courts hold that the sufficiency of an indictment may be questioned for the first time in the Supreme Court on appeal. *O'Brien v. State*, 63 Ind. 242; *Hays v. State*, 77 Ind. 450; *State v. Caldwell*, 112 N. C. 854.

Criminal Law—Right of Accused to Confront Witnesses—Constitutional Provision.—Cremeans v. Commonwealth, 52 S. E. 362 (Va.).—*Held*, that it is not error to force the accused into trial in the absence of his witnesses, when it appears to the court that the motive is a mere pretext for delay. Caldwall, J., *dissenting*.

The tendency has been to support this proposition. *Hooker v. Rogers*, 6 Cowen 577; *King v. Pearce*, 40 Mo. 223; *The King v. D'Eon*, 1 Bl. Rep. 510. The rule is the same in criminal cases as in civil cases. *People v. Vermilyea*, 7 Cowen 383; *The King v. D'Eon*, *supra*. The motion must show due diligence to procure the testimony, and that there is a reasonable probability that it can be obtained; *Robinson v. Glass*, 94 Ind. 211; and that it can be procured in a reasonable time. *Brown v. Moran*, 65 How. Pr. 349. The applicant must know the witnesses' whereabouts, *Carberry and Case v. Warrell*, 68 Miss. 573. The Massachusetts' courts seem to hold that the witness must be within the jurisdiction of the court. *Com. v. Millard*, 1 Mass. T. R. 6.

Dead Bodies—Mutilation—Action by Surviving Husband.—Jackson v. Savage et al., 96 N. Y. Supp. 366.—*Held*, that a husband has a right of action for the dissection of the body of his deceased wife without his permission or without the permission of his wife given during her lifetime.

The question as to whether a husband or wife has a right of action for the mutilation of the remains of the deceased has been much discussed. It resolves itself into a question of property in a dead body. There was at common law no such right of property. Lord Coke is reported as saying: "*Cadaver nullius ni bonis.*" Blackstone says,: "Though the heir has a property in the monument and escutcheons of his ancestor, he has none in his dead body or ashes." 2 Bl. Com. 249. Wharton says: "*Corpus humanum non recepit estimationem.*" In support of this view, *Griffith v. Chorlotte C. & A. R. Co.*, 23 S. C. 25, held that an administrator of a deceased person had no right of action for the mutilation of the body of his intestate. However, to-day the great weight of authority is to the effect that there is such property, *quasi*-property, or interest in the dead body of a human being as to sustain a civil action for its wilful mutilation. *Larson v. Chase*, 47 Minn. 307, held that a widow has a right of action for the unlawful mutilation of the remains